Filed: 8/19/2020 12:02 PM
Lynne Finley
District Clerk
Collin County, Texas
By Tatiana Ortega Deputy
Envelope ID: 45512404

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

NO. 417-53803-2020

IN THE INTEREST OF	§	**IN THE DISTRICT COURT**
	§	
S.L, J.L. AND L.L.	§	**417TH JUDICIAL DISTRICT**
	§	
CHILDREN	§	**COLLIN COUNTY, TEXAS**

RESPONDENT'S MOTION TO STRIKE PETITIONER'S PLEADINGS AND SUPPORTING AFFIDAVITS AND REQUEST FOR ATTORNEY'S FEES

Respondent/Mother Kelly Long files this *Motion to Strike Pleadings and Supporting Affidavits and Request for Attorney's Fees* and shows the Court the following:

I. REQUEST FOR RELIEF

Kelly Long requests that this Court deny all relief requested by Petitioner, Michael Long, in his *Petition to Modify Parent-Child Relationship,* and *First Amended Motion for Temporary Orders* and strike Michael Long's pleadings and supporting affidavits, and requests attorney's fees.

II. HISTORY

1. On July 28, 2020, Petitioner filed a *Petition to Modify Parent-Child Relationship* and made a request for a Temporary Restraining Order.
2. On July 28, 2020, Respondent filed a *Petition for Writ of Habeas Corpus.*
3. On July 29, 2020 Petitioner's *Temporary Ex-Parte Restraining Order* was signed by the Court and set for hearing on August 12, 2020.
4. On July 31, 2020, Respondent filed a *Motion for Sanctions.*
5. On August 5, 2020, Respondent filed a *Counterpetition to Modify Parent-Child Relationship.*

6. On August 6, 2020, Respondent filed a *Response and Motion to Dismiss Petitioner's Ex Parte Temporary Restraining Order and Mother's Request for Temporary Orders.*
7. On August 12, 2020 Petitioner filed a *Response to Respondent's Motion for Sanctions.*
8. On August 12, 2020 Petitioner's counsel filed a *Motion to Withdraw,* and an *Agreed Order for Withdrawal of Counsel.*
9. A hearing on Petitioner's *Temporary Restraining Order* was held.
10. On August 13, 2020 Petitioner's new counsel filed an *Entry of Appearance.*
11. On August 13, 2020 Respondent filed an *Emergency Motion to Set Aside Temporary Restraining Order* and an *Application for Temporary Restraining Order.*
12. On August 14, 2020 Petitioner filed a. *Motion for Further Temporary Restraining Order*, with a supporting affidavit.
13. On August 14, 2020 the Court granted Respondent's *Temporary Restraining Order.*
14. On August 17, 2020 the Court granted Respondent's *Emergency Motion to Set Aside Temporary Restraining Order.*
15. On August 17, 2020 Petitioner filed a *First Amended Motion for Temporary Orders,* with supporting affidavits.

III. ARGUMENTS AND AUTHORITIES

This Court should strike Petitioner's *Petition to Modify Parent-Child Relationship,* and *First Amended Motion for Temporary Orders* and strike Michael Long's pleadings and supporting affidavits because the requested relief is based on hearsay within the affidavits.

Under the Texas Rules of Civil Procedure, hearsay is defined as a statement (1) the declarant does not make while testifying at the current trial or hearing; and (2) a party offers in evidence to prove the truth of the matter asserted in the statement. TEX. R. CIV. P. 801. Hearsay is not admissible if it is objected to. TEX. R. CIV. P. 802.

The affidavit attached to Petitioner's *Petition to Modify Parent Child Relationship* is a sworn declaration made by Kourtney Chalmers, Petitioner's girlfriend/ wife. In an attempt to persuade the Court to grant Petitioner's *Temporary Restraining Order*, Kourtney Chalmers makes multiple statements that are inadmissible hearsay relating to doctor's diagnoses without supporting evidence, and statements of one of the children the subject of this suit.

Furthermore, the affidavit attached to Petitioner's *First Amended Motion for Further Temporary Orders* is a sworn declaration made by Petitioner, Michael Long, and is entirely made up of statements of inadmissible hearsay without supporting evidence. Please see the Motion and supporting affidavits attached hereto as Exhibit A, and incorporated herein for all intents and purposes. Michael Long was not present at the child's referenced doctor's visits and therefore constitute double hearsay. Additionally, based on medical records obtained by the child's referenced doctor, the statements in Michael Long's affidavit are false. Therefore, Respondent requests that the affidavits of Michael Long and Kourtney Chalmers be stricken, and the pleadings that request relief based on these affidavits also be stricken.

IV. ATTORNEY'S FEES

It was necessary for Respondent to secure the services of Amber Shemesh, Alexandra Willen and the Law Offices of Amber Shemesh, P.C., licensed attorney's, to preserve and protect the children's rights and interests and Respondent's interests. Petitioner should be ordered to pay reasonable attorney's fees, expenses, and costs through trial and appeal, and a judgment should be rendered in favor of this attorney and against Petitioner due to these frivolous filings and fees be ordered paid directly to Respondent, who may enforce the judgment in the attorney's own name. Respondent requests postjudgment interest as allowed by law.

V. PRAYER

Respondent Kelly Long prays that the Court deny Michael Long's requests for relief.

Kelly Long also prays that the Court strike Michael Long's pleadings and supporting affidavits, and all other relief as the Court deems just and equitable.

Respectfully submitted,

Law Offices of Amber Shemesh. P.C.
12222 Merit Drive, Suite 1200
Dallas, Texas 75251
Tel: (214) 432-2501
Fax: (214) 432-2510

By: _____
Amber Shemesh
State Bar No. 24075066
amber@shemeshfamilylaw.com
Alexandra Willen
State Bar No. 24110533
awillen@shemeshfamilylaw.com
Attorneys for Respondent, Kelly Long

Certificate of Service

I certify that a true copy of this Motion was served in accordance with rule 21a of the Texas Rules of Civil Procedure on the following person on August ~~18,~~ 19, 2020:

Taylor Mohr by electronic filing manager.

_____
Amber Shemesh/ Alexandra Willen
Attorneys for Respondent, Kelly Long

EXHIBIT

A

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

NO. 417-53803-2020

IN THE INTEREST OF	§	**IN THE DISTRICT COURT**
	§	
S.A.L., J.L.L. AND L.A.L.,	§	**417TH JUDICIAL DISTRICT**
	§	
CHILDREN	§	**COLLIN COUNTY, TEXAS**

FIRST AMENDED MOTION FOR TEMPORARY ORDERS

Michael Long, Petitioner, requests the Court, after notice and hearing, to make temporary orders for the safety and welfare of the children, including but not limited to the following:

1. Appointing Petitioner as Temporary Sole Managing Conservator or, in the alternative, Appointing Petitioner as the Joint Managing Conservator with the exclusive right to designate the primary residence of the children and to receive child support.
2. Granting Respondent the right to possession of the children pursuant to a possession schedule that is deemed to be in the best interest of the children, taking into consideration the circumstances of the parties and the children, including but not limited to ordering that Respondent's periods of possession be supervised.
3. Enjoining Respondent from allowing the children to be in the presence of Jacob Bellington.
4. Ordering Respondent to provide for support of the children, including the payment of child support and medical and dental support in the manner specified by the Court, while this case is pending.
5. Awarding Petitioner the exclusive right to enroll the children in school.
6. Ordering the completion of a psychiatric evaluation of Respondent and the child.

7. Ordering that the child be enrolled in counseling and that the cost for such counseling be divided evenly between the parties.

8. Appointing Rachel Li as Amicus Attorney for the child and ordering that the cost for such Amicus Attorney be divided evenly between the parties.

9. Adopting the terms and conditions of the Collin County Standing Order as temporary injunctions for the duration of the case.

10. Ordering Respondent to pay Petitioner's reasonable and necessary attorney's fees incurred as the result of these temporary orders.

11. Ordering the parties to participate in mediation with the Hon. Francis Harris with each party being responsible for one-half of the fees charged by the mediator as directed by the mediator.

These temporary orders are necessary because the children's present circumstances would significantly impair the children's physical health or emotional development, and the requested temporary orders are in the best interest of the children. See affidavits attached hereto and incorporated herein by reference.

Prayer

Petitioner prays that, after notice and hearing, the Court enter temporary orders and temporary injunctions as requested herein above.

Petitioner prays for recovery of attorney's fees, expenses, and costs as requested above.

Petitioner prays for all further relief to which he may be justly entitled, in law or in equity.

Respectfully submitted,

MOHR LAW GROUP
5830 Granite Parkway #100-220
Plano, Texas 75024
Tel: 972.265.9530

By: Taylor Mohr
Taylor M. Mohr
State Bar No. 24081049
taylor@mohrlawgroup.com
Attorney for Michael

CERTIFICATE OF SERVICE

I certify that a true copy of this First Amended Motion for Temporary Orders was served in accordance with rule 21a of the Texas Rules of Civil Procedure on the following on August 17, 2020:

Amber Shemesh by electronic filing manager.

Taylor Mohr
Taylor M. Mohr
Attorney for Michael Long

EXHIBIT A

PETITIONER'S SUPPORTING AFFIDAVIT

Michael Long appeared in person before me today and stated under oath:

"My name is Michael Long. I am above the age of eighteen years, and I am fully competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

"I am the Petitioner in this case and the children's father.

"On August 13, 2020 (**after the hearing held on August 12, 2020**), Sophie's doctor called us highly concerned about results she had received from Sophie's medical tests. She instructed us to bring Sophie in immediately. Sophie made additional statements to the doctor that were inappropriate and highly concerning (for example, Sophie asked the doctor if the doctor would need to take pictures of her vagina).

"Sophie's doctor is now having Sophie tested for STDs like chlamydia. She has also ordered a pelvic ultrasound and an abdominal ultrasound. Sophie is also experiencing chronic vaginal pain and rectal disfunction and making outcries claiming to be concerned that she will be killed if she returns to her mom's house now that she has told people what has been happening to her. Sophie's treating physician has stated that Sophie should not travel for more than 15 minutes right now and that she should immediately report for these additional tests. Sophie's doctor has also said that if these conditions are not immediately treated, they could become life threatening. The information from Sophie's doctor is attached to this affidavit and incorporated into this affidavit by reference.

"Given the seriousness of Sophie's allegations, the medical tests she needs to

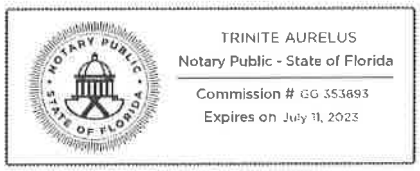
report for, and her doctor's instructions not to travel, I am asking the court to deny Respondent access to or possession of Sophie until we have a hearing on these issues.

"Based on the seriousness of Sophie's statements and her medical needs, I believe that failure to grant this additional TRO will endanger Sophie's health. According to the doctor, travel and failure to seek immediate medical treatment could be life threatening.

Michael Long

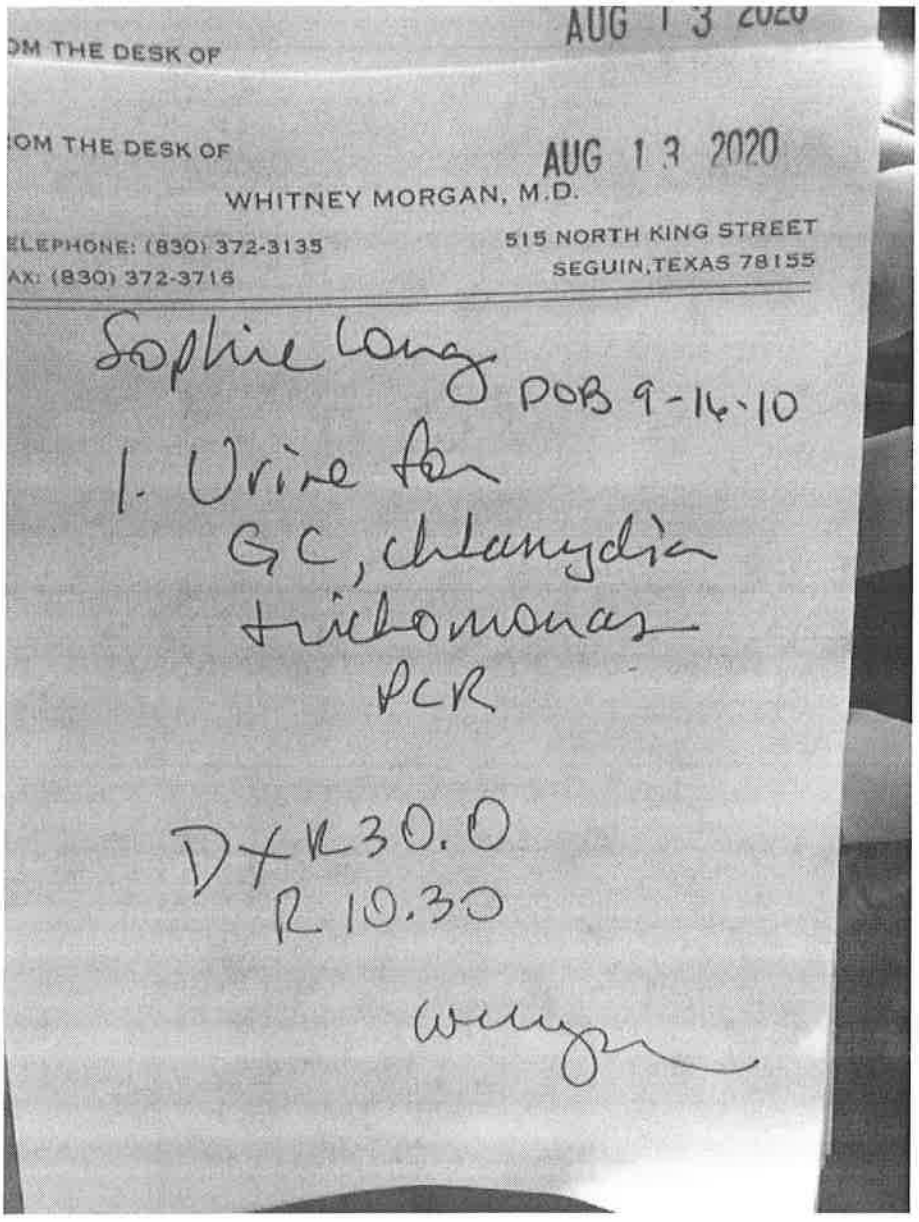
SIGNED under oath before me on 08/14/2020.

GG 353893
07/11/2023
Florida
Broward



Notary Public, State of Florida

Electronic Notary Public
Notarized online using audio-video communication



OM THE DESK OF AUG 13 2020

OM THE DESK OF AUG 13 2020

WHITNEY MORGAN, M.D.

ELEPHONE: (830) 372-3135
AX: (830) 372-3716

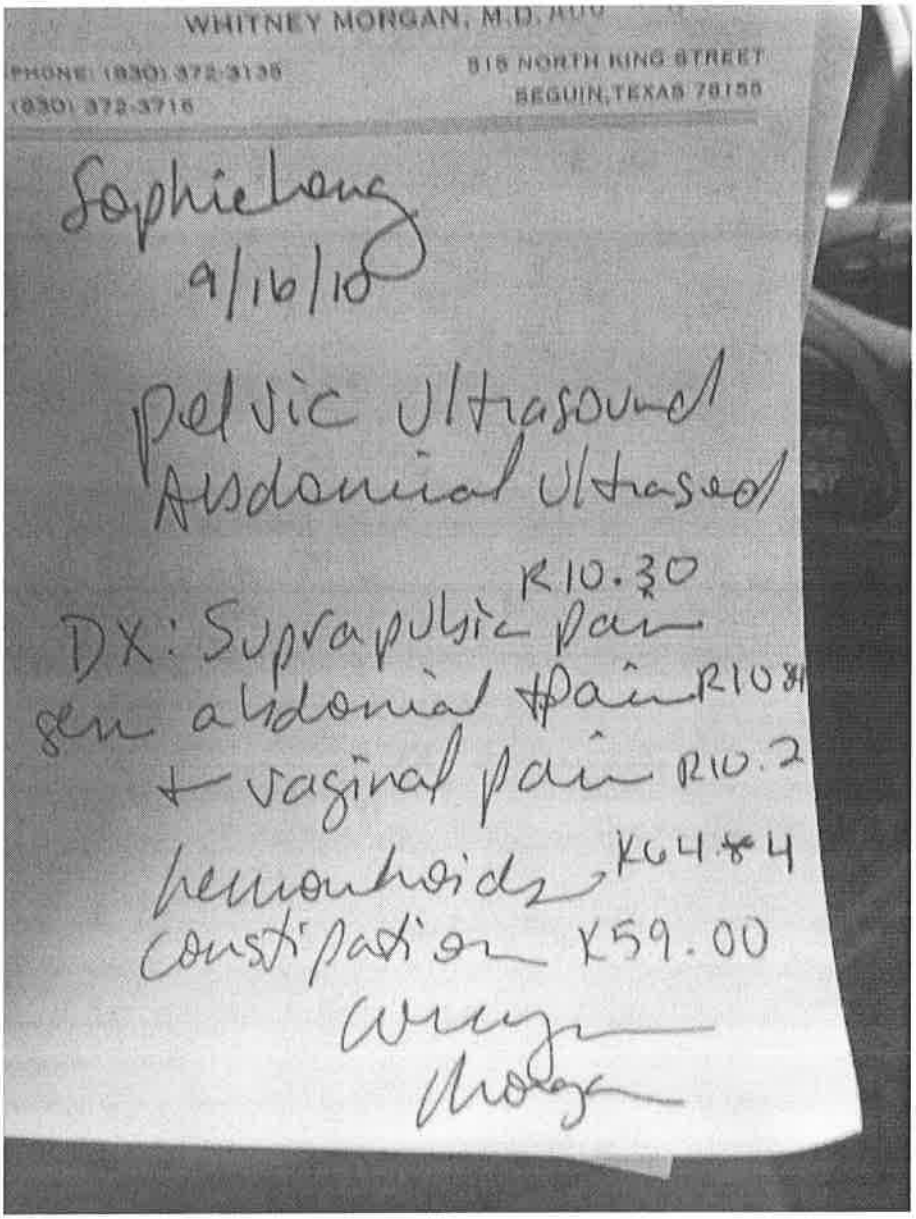
515 NORTH KING STREET
SEGUIN, TEXAS 78155

Sophie Long DOB 9-16-10

1. Urine for
GC, chlamydia
trichomonas
PCR

DX R30.0
R 10.30

Wmorgan



WHITNEY MORGAN, M.D.

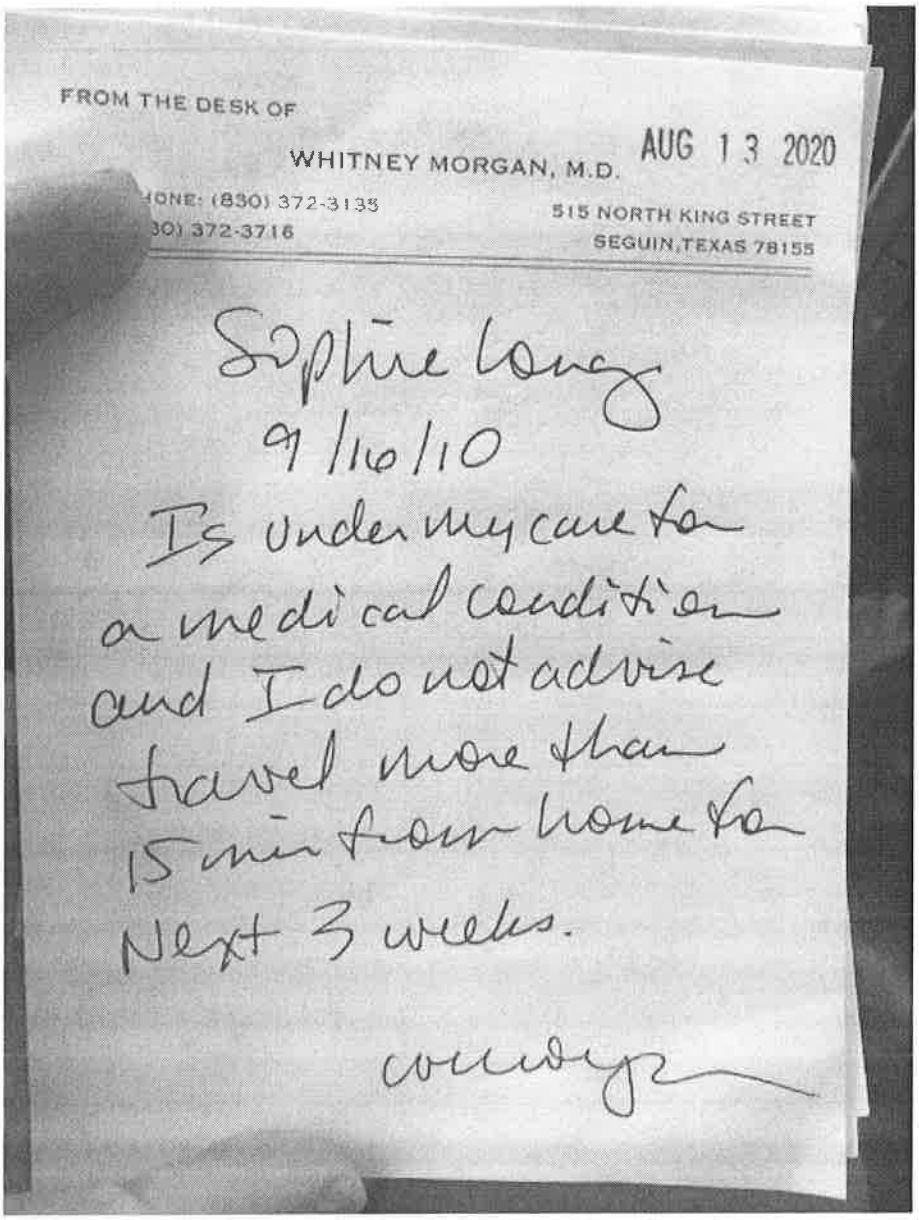
PHONE (830) 372-3135
(830) 372-3716

515 NORTH KING STREET
BEGUIN, TEXAS 78155

Sophie Long
9/16/10

Pelvic Ultrasound
Abdominal Ultrasound

DX: Suprapubic Pain R10.30
Generalized Abdominal Pain R108
+ vaginal pain R10.2
Hemorrhoids K64.4
Constipation K59.00



FROM THE DESK OF

WHITNEY MORGAN, M.D.

AUG 13 2020

PHONE: (830) 372-3135
(830) 372-3716

515 NORTH KING STREET
SEGUIN, TEXAS 78155

Sophie Long
9/16/10
Is under my care for a medical condition and I do not advise travel more than 15 min from home for Next 3 weeks.

Whitney Morgan

CAUSE NO. 417-53803-2020

IN THE INTEREST OF	§	IN THE DISTRICT COURT
	§	
S.L., J.L. AND L.L.,	§	_____ JUDICIAL DISTRICT
	§	
CHILDREN	§	COLLIN COUNTY, TEXAS

AFFIDAVIT OF KOURTNEY CHALMERS

Kourtney Chalmers personally appeared before me and stated under oath:

"My name is Kourtney Chalmers. I am over the age of 18. I am competent to testify and therefore make this Affidavit. This Affidavit is based on my personal knowledge, and the facts are true and correct.

I am the Step-Mother of the children in the above named suit.

The children are currently in the possession of my husband Michael Long who is the father of the children that are the subject of this suit. We have had possession for the summer visitation since June 15, 2020. They are due to be returned to their mother today, July 27, 2020 at 6pm. At this time it is necessary to prevent the return of the children to protect their safety and welfare as outlined below.

Sophie Long, age 9, is one of the children subject of this suit. When the children began their visit with us in June, Sophie behaved as though she was uncomfortable and told me that she needed to talk to me about "girl stuff". She described feeling like she has "needles in her ViVi" and that when she was at mommy's it felt like a "pole was up her Vivi". I know her to use the term "vivi" to describe her vagina. She disclosed to me that she let her mother know about the discomfort and that her mother told her "if we take you to the doctor they will look at your vivi". This was concerning to me, and after discussion with Michael we determined I would take Sophie to the doctor. I took her to an urgent care center and she was diagnosed with a urinary tract infection and prescribed antibiotics. At that time, they did not look at her vaginal area, but

took a urine sample and indicated there was bacteria. Michael let the mother (Kelly Long) know and questioned why she had not already taken Sophie to the doctor.

Approximately 5 days later Sophie was still very uncomfortable and having a hard time sitting. I took her to Little Spurs Urgent care in New Braunfels and they determined that she might have a yeast infection from the antibiotics, and they prescribed some cream.

The weekend of July 10th Sophie and her siblings returned to their mother, Kelly Long, for a 2-day visit. We sent the cream with her and Kelly knew about the yeast infection diagnosis. When the visit was over the children came home and it was quickly apparent that Sophie was again very uncomfortable sitting and seemed to be in pain again. I took her back to Little Spurs where they prescribed a stronger cream. They also seemed concerned that Sophie described being told at her mother's to "be tough and hold it or piss your pants" by her mother and her mother's boyfriend Jacob Bellington.

We have had concerns for several months about the domestic violence between Jacob and Kelly. There are numerous 911 calls and a CPS investigation that was initiated regarding the domestic violence. There have also been concerns about the people Kelly is allowing around the children and incidents the children describe happening at "nana's house" (not Kelly's mother) and an "Uncle Dan" who we have later determined is a man named Daniel Wayne Apperson.

This past weekend Sophie told me that her "bug bites" on her butt were bleeding, and she indicated they were not just on her butt, but were in fact "between" in her vivi. I called Little Spurs and they said the police needed to be called and that they did not do those types of exams. I eventually was able to find a hospital in Austin that could take us and examine Sophie. We went to Dell Hospital in Austin and Sophie was examined. At that visit the police were called and a CPS referral was made. She was diagnosed with "Sexual Assault by bodily force" and we were told we could not return her to Kelly.

After getting home from the hospital Sophie has become more descriptive to me about the abuse. The most alarming thing she has told me is that "uncle Dan" has a "big penis that looks weird" and that "he made me sit on it."

These things are all happening in the home of Kelly Long, or at her boyfriend's family's home. Additionally, Sophie has expressed repeated concerns of someone taking pictures of her "vivi" - which to our understanding law enforcement is also concerned about. We have been told to expect a forensic interview be requested and we are eager to have that done to assist in finding out what has happened to Sophie.

Perhaps scarier than anything else, Sophie has disclosed to me repeatedly since Saturday that she is afraid "they" will kill her because she told. I do not want her to be placed in a situation where there will be retribution against her. I want her to be safe.

Therefore, an order excluding Kelly Long from possession of or access to the children the subject of this suit is necessary to protect the safety and welfare of the children.

Courtney Chalmers

STATE OF TEXAS §

COUNTY OF Guadalupe §

SUBSCRIBED AND SWORN TO before me on 7-27-2050.

KIMBERLY GABRIEL
Notary Public, State of Texas
Comm. Expires 05-04-2023
Notary ID 130212948

Notary Public

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Adriana Cancino on behalf of Amber Shemesh
Bar No. 24075066
acancino@shemeshfamilylaw.com
Envelope ID: 45512404
Status as of 8/19/2020 12:17 PM CST

Associated Case Party: Kelly Long

Name	BarNumber	Email	TimestampSubmitted	Status
Amber Shemesh		amber@shemeshfamilylaw.com	8/19/2020 12:02:16 PM	SENT
Adriana Cancino		acancino@shemeshfamilylaw.com	8/19/2020 12:02:16 PM	SENT
Alexandra Willen		awillen@shemeshfamilylaw.com	8/19/2020 12:02:16 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Kim Scroggins		kim@mohrlawfirm.com	8/19/2020 12:02:16 PM	SENT
Taylor Mohr		taylor@mohrlawfirm.com	8/19/2020 12:02:16 PM	SENT
Taylor MMohr		taylor@mohrlawfirm.com	8/19/2020 12:02:16 PM	SENT
Mary Spring		maryspring@mohrlawfirm.com	8/19/2020 12:02:16 PM	SENT